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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/518,823

09/14/2005

Phil Kongtcheu

9878

28932 7590 08/05/2008  
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EXAMINER

CHANDLER, SARA M

ART UNIT

PAPER NUMBER

3693

MAIL DATE

DELIVERY MODE

08/05/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/518,823	<b>Applicant(s)</b> KONGTCHEU, PHIL	
	<b>Examiner</b> SARA CHANDLER	<b>Art Unit</b> 3693	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 March 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 10, 13-15, 22, 58, 97, 115, 121, 122, 145, 152, 178, 238 and 268 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1, 10, 13-15, 22, 58, 97, 115, 121-122, 145, 152, 178, 238, 268 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

1. Claim 1, drawn to a method of facilitating the formation of a BIC between one or more buyers and one more sellers, for use as a building block in the formation of any financial derivatives contract, where both said BIC and said financial derivatives contract pertain to any number of underlyings, in a single or multi-period trading framework, for any notional amount.
2. Claim 10, drawn to a method of facilitating the formation of any financial derivatives contract between one or more buyers and one more sellers, for any number of underlyings, in a single or multi-period trading framework, for any notional amount.
3. Claims 13-15, drawn to a method for compressing the format of the payout payment function of a derivatives contract on one or more underlyings, for a single or multi-period trading framework, for any notional amount, to facilitate decomposition into one or more BICs.
4. Claim 22, drawn to a method for transforming an initial derivatives contract, on one or more underlyings, for a single or multi-period trading framework, for any notional amount, into an ultimate portfolio of replicating BICs, for valuation and hedging purposes
5. Claim 58, drawn to a method for providing the price of each BIC within an original BIC-basis of one or more related BICs, where each BIC of said original BIC-basis is

considered an element of said BIC-basis, and where each BIC pertains to any number of underlyings, in a single or multi-period trading framework.

6. Claim 97, drawn to a method for pricing a derivatives contract on any number of underlyings, in a single or multi-period trading framework, for any notional amount,.

7. Claim 115, drawn to a method for a first stakeholder in a financial transaction to incorporate credit risk sensitivity in the estimation of the value of a counterparty's liability.

8. Claim 121, drawn to a method for calculating the credit risk limit of a given counterparty.

9. Claim 122, drawn to a method for determining a margin amount due by a stakeholder on a derivatives contract.

10. Claim 145, drawn to a method for incorporating supply and demand sensitivities in BICs premium payment amounts, in units of base currency.

11. Claim 152, drawn to a method for automatically quoting BICs prices in a trading or exchange system.

12. Claim 178, drawn to a method for mediating trading in BICs.

13. Claim 238, drawn to a method for managing risk on a portfolio of financial derivatives contracts.

14. Claim 268, drawn to a method of accounting for derivatives contracts, in compliance with FAS 133 or IAS 39, to reduce volatility in periodic earnings, where said derivatives contracts are used to hedge against fluctuations in the value of a held asset.

. The inventions are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable.

In the instant case, subcombination 1 has separate utility such as identifying agreement terms of said BIC, including at least:

- information to identify said one or more buyers and said one or more sellers,
- a contract time indicating when said BIC will become binding,
- a premium payment time posterior or equal in time to said contract time,
- a payout payment time posterior or equal in time to said premium payment time,
- a premium payment amount to be paid by said one or more buyers to said one or more sellers, expressed in the format of a function of observed values of the one or more underlyings from said contract time up to and including said premium payment time, and,
- a payout payment amount, expressed in the format of a function of observed values of the one or more underlyings from said contract time up to and including said payout payment time. See MPEP § 806.05(d).

In the instant case, subcombination 2 has separate utility such as identifying agreement terms of said derivatives contract, including :

- information to identify said one or more buyers and said one or more sellers,
- a contract time indicating when said derivatives contract will become binding,
- a premium payment time posterior or equal in time to said contract time,
- a payout payment time, posterior or equal in time to said premium payment time,
- a premium payment amount to be paid by said one or more buyers to said one or more sellers, expressed in the format of a function of observed values of the one or more underlyings from said contract time up to and including said premium payment time, and,
- a payout payment amount, expressed in the DCWBSOF format. See MPEP § 806.05(d).

In the instant case, subcombination 3 has separate utility such as transforming said payout payment function expressed in said DCWBSOF format into DCWOF format, where said DCWOF format is a function of the observed values of the one or more underlyings from said contract time up until and including said payout payment time but not parameters representing value choices available to said one or more buyers and

said one or more sellers from said contract time up to and including said designated payout payment time. See MPEP § 806.05(d).

In the instant case, subcombination 4 has separate utility such as performing an iterative process to return said ultimate portfolio of replicating BICs. See MPEP § 806.05(d).

In the instant case, subcombination 5 has separate utility such as providing the premium payment amounts of each element of said subsequent BIC-basis using a functional formula. See MPEP § 806.05(d).

In the instant case, subcombination 6 has separate utility such as a. enabling a stakeholder to provide a description of said derivatives contract in a functional format. See MPEP § 806.05(d).

In the instant case, subcombination 7 has separate utility such as creating a credit risk underlying whose value at any given time is equal to the percentage of the liability said counterparty honors at said given time, and where said percentage depends on the notional amount of said counterparty's liability at said given time, said first stakeholders identity and said counterparty's identity. See MPEP § 806.05(d).

In the instant case, subcombination 8 has separate utility such calculating the credit risk limit of a given counterparty by setting a maximum responsive to the difference between the value of the counterparty liability not inclusive of credit risk and the value of said liability inclusive of credit risk. See MPEP § 806.05(d).

In the instant case, subcombination 9 has separate utility such as calculating said margin responsive to said first payment amount and said second payment amount. See MPEP § 806.05(d).

In the instant case, subcombination 10 has separate utility such as inputting a scaling density function relating the dependence of the first unit notional premium amount of said BICs to the premium amount for any other notional amount of said BICs.. See MPEP § 806.05(d).

In the instant case, subcombination 11 has separate utility such as a method for automatically quoting BICs prices in a trading or exchange system comprising inputting functions representative of BICs prices responsive to offer and demand. See MPEP § 806.05(d).

In the instant case, subcombination 12 has separate utility such as establishing a network to facilitate interaction between stakeholders under the supervision of a trading system management authority. See MPEP § 806.05(d).

In the instant case, subcombination 13 has separate utility such as re-allocating inventory responsive to assessing the risk on said portfolio. See MPEP § 806.05(d).

In the instant case, subcombination 14 has separate utility such as reporting said residual contract in a net profit or loss as the non-hedging part of said derivatives contract. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the



allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

**Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.**

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

The examiner has not contacted the applicant for election over telephone due to the complex nature of the election/restriction requirement (see MPEP §812.01 (R-3)).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARA CHANDLER whose telephone number is (571)272-1186. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMC

/JAGDISH N PATEL/

Primary Examiner, Art Unit 3693